

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

LARRY E. EALY, SR.,

Petitioner,

: Case No. 3:15-cv-079

- vs -

District Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz

SEMOINE CHILDS, et al.,

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Respondents.

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**REPORT AND RECOMMENDATIONS**

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This is a habeas corpus action brought pursuant to 28 U.S.C. § 2241 by Larry E. Ealy, Sr., in the United States District Court for the District of Columbia and transferred to this Court from the court in which it was filed on February 26, 2015. Upon initial review, the Court found the Petition was inadequate in several respects. First of all, it names as Respondents Semoine Childs, Kobi Cooper, Nicolai Davenport, Starlissa Little, Nick Kuntz, Kimberly Harshbarger, Virginia Platt Gehres, Joseph Habbyslaw, Dawn Williams, Chris Cloud, and Steven Abshire. It recites that its purpose is to inquire into the “cause of constructive custody and restraint of liberty of David Michael Childs Early,” alleged to be Petitioner’s child (Complaint, Doc. No. 1, ¶ 2, PageID 3). However, the Petition fails to allege who has custody of David Michael Childs Ealy, except insofar as it alleges in ¶ 47 that the child is in the custody of the Montgomery County Department of Children’s Services, which is not named as a Respondent.

Secondly, the Petition refers to numerous exhibits supposedly attached which are not in

fact attached.

The Court ordered Petitioner to correct these deficiencies by filing, not later than March 10, 2015, an amended petition stating clearly who he alleges has actual custody of the minor child and which attaches the referenced exhibits. No such amended petition has been filed. On the current state of the pleadings, the Court cannot tell to whom it should direct an order to show cause or conduct an initial review of the merits to determine jurisdiction.

It is accordingly respectfully recommended that the Petition herein be dismissed without prejudice for want of prosecution.

March 12, 2015.

s/ *Michael R. Merz*  
United States Magistrate Judge

#### **NOTICE REGARDING OBJECTIONS**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 153-55 (1985).